

# **3 FAM 1900 Appendix A**

## **OLD 3 FAM 695, ALCOHOLISM AND DRUG ABUSE PROGRAM**

*(TL:PER-284; 08-18-1995)*

At this time the new material which would be contained in this subchapter have not been cleared for issuance. Accordingly the old 3 FAM version, which is the current version in force, is issued as Appendix A to this chapter. The most recent issuance of this material was done under TL:PER 401, dated 6-30-75.

## **3 FAM 695 ALCOHOLISM AND DRUG ABUSE PROGRAM**

### **3 FAM 695.1 Purpose**

*(TL:PER-401; 6-30-75)*  
*(Uniform State/AID/USIA)*

An alcoholism and drug abuse program has been established within the foreign affairs agencies. The purpose is to educate personnel on alcoholism and drug abuse, to encourage employees with these problems to avail themselves of the counseling and assistance provided on a confidential basis by management and the medical staff, and to define policies and procedures for handling alcoholism and drug abuse cases.

Alcoholism and drug abuse seriously impair the health and well-being of the individual and of society. In recognition of a national need for effective treatment programs to rehabilitate victims of these abuses and for effective law enforcement, Public Law 91-513, Comprehensive Drug Abuse Prevention and Control Act of 1970, was approved on October 27, 1970, (21 U.S.C. 801; 42 U.S.C. 242, 257, 2688), but Federal civilian employees were exempted. In recognition of Federal civilian employee needs, subsequent laws (see section 3 FAM 695.2) were passed to provide for Federal programs and services for Federal employees who have alcohol or drug abuse problems.

The foreign affairs agencies in dealing with alcoholism and drug abuse take into account the fact that education, treatment, rehabilitation, research, training, and law enforcement are not separate approaches to the problem but are closely interrelated.

## **3 FAM 695.2 Authority**

### **3 FAM 695.2-1 Legislation**

*(TL:PER-401; 6-30-75)*  
*(Uniform State/AID/USIA)*

Authority to develop and maintain appropriate counseling and assistance programs and services for alcohol abuse among employees is provided in section 201 of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 (Public Law 91-616 approved December 31, 1970; 42 U.S.C. 4561); for drug abusers, authority is provided in section 413 of the Drug Abuse Office and Treatment Act of 1972 (Public Law 92-255 approved March 21, 1972; 21 U.S.C. 1180).

These programs for Federal employees are administered in cooperation with the Civil Service Commission, the Department of Health, Education, and Welfare (for alcoholism), and the Special Action Office for Drug Abuse Prevention in the Executive Office of the President (for drug use). The Special Action Office has issued regulations, 38 FR 33744 (December 6, 1973), interpreting section 408 of Public Law 92-255 on confidentiality of patient records. These regulations are an integral part of the program. The Civil Service Commission, in FPM Letter No. 792-7, dated June 17, 1974, combined the alcohol and drug abuse programs.

### **3 FAM 695.2-2 Regulations**

*(TL:PER-401; 6-30-75)*  
*(Uniform State/AID/USIA)*

These regulations are based on the policy and guidance of the Civil Service Commission, the agency responsible for developing and maintaining alcoholism and drug abuse programs for Federal employees.

## **3 FAM 695.3 Policy**

### **3 FAM 695.3-1 Objective**

*(TL:PER-401; 6-30-75)*  
*(Uniform State/AID/USIA)*

The Department of State, AID, and USIA are concerned with the accomplishment of their missions and the requisite need to maintain employee productivity. The objective of the alcohol and drug abuse policy is to provide humanitarian consideration of cases of alcoholism and drug abuse in a manner which protects both the interests of the U.S. Government and the rights of the employee or patient involved.

### **3 FAM 695.3-2 Procedures**

*(TL:PER-401; 6-30-75)*  
*(Uniform State/AID/USIA)*

When an employee's use of alcohol or drugs interferes with the efficient and safe performance of the employee's assigned duties, reduces dependability, or reflects discredit on the agency, the employing agency will take action in the form of:

a. Nondisciplinary procedures, under which employees and eligible dependents with alcoholism and drug abuse problems are offered rehabilitative assistance;

b. Disciplinary procedures if an employee does not respond to rehabilitative assistance with acceptable work performance or creditable conduct; or

c. Reporting to appropriate security authority the circumstances surrounding an employee's alcoholism or drug abuse problem, if the conduct poses a hazard to national security interests or to the safety of the employee or others and therefore requires a limitation on duties or assignments dealing with national security information.

d. Reporting to law enforcement and/or security agencies authorities if an employee's or eligible dependent's alcoholism or drug abuse problem results in documentation of sustained impaired judgment or involves criminal conduct directed toward, or potentially harmful to, the persons or property of others, such as driving a car under the influence of alcohol, selling drugs, or stealing to support a drug habit. Management's first obligation in such cases is to those persons or properties, and then to the employee involved.

Law enforcement reports are made in State through the Director General of the Foreign Service (M/DG); in AID by the Office of the General Counsel; and in USIA by the Office of the Assistant Director (Security).

### **3 FAM 695.3-3 Obligations**

*(TL:PER-401; 6-30-75)*  
*(Uniform State/AID/USIA)*

The management of State, AID, and USIA and all of their supervisory personnel have an obligation to:

a. Give this program total and sympathetic support;

b. Recognize that alcoholism and drug abuse for the purposes of this policy are treatable health problems which may affect the employee's job performance, or cast discredit on the employing agency and the U.S. Government, and the employee may require medical assistance, treatment, or rehabilitation;

c. Consider for employment any person who has been rehabilitated from a prior alcohol or drug abuse problem, except for employment in critical sensitive positions (see section 3 FAM 695.5d for definition of critical-sensitive positions);

d. Evaluate for employment applicants with current alcohol or drug abuse problems on the same basis as applicants with other health problems in the light of the medical requirements for employment in the foreign affairs agencies (see section 3 FAM 695.8-7);

e. Provide continuing education and counseling to alert employees and their dependents to the dangers of alcoholism and drug abuse;

f. Encourage voluntary disclosure of alcoholism or drug abuse to supervisors or alcoholism or drug abuse program administrators, coordinators, counselors, or to Foreign Service medical officers or nurses, so that counseling and/or medical assistance may be given promptly and discreetly;

g. Give employees having an alcohol or drug abuse problem the same careful consideration and offer of assistance that is presently extended to employees having any other health problem;

h. Grant sick leave or other leave for the purpose of treatment or rehabilitation as in any other health problem;

i. Assure that employees' job security or promotion opportunities will not be jeopardized solely by a request for counseling or referral assistance, unless employees are serving in critical-sensitive positions;

j. Emphasize that this program in no way jeopardizes employees' rights to disability retirement, if warranted;

k. Provide training for supervisors to develop skills in identifying deteriorating performance in employees, in carrying out counseling responsibilities on the basis of job performance, and in applying firm and consistent corrective procedures, or, when necessary, recommending disciplinary action;

l. Assure that if disciplinary action becomes necessary because of failure of treatment or refusal of counseling or rehabilitation, any such action against employees will be taken because of deficient work performance or conduct of the employee which has not met the standards of the foreign affairs agencies (see section 3 FAM 695.7);

m. Assure that if criminal conduct directed toward or potentially harmful to national security interests or to the person or property of others is involved, action is taken to protect these interests, persons, or properties; and

n. Preserve the confidential nature of medical counseling records on an employee or eligible dependent with an alcohol or drug abuse problem, in accordance with these regulations (see section 3 FAM 695.8).

### **3 FAM 695.4 Applicability**

*(TL:PER-401; 6-30-75)*

*(Uniform State/AID/USIA)*

The Alcoholism and Drug Abuse Program provides counseling and assistance to American Foreign Service personnel and their eligible dependents and to Civil Service personnel.

### **3 FAM 695.5 Definitions**

*(TL:PER-401; 6-30-75)*

*(Uniform State/AID/USIA)*

The following definitions apply for the purposes of this regulation:

#### **A. Alcohol or Drug Counselor**

A person who has special education, experience, or on-the-job training to provide alcohol or drug counseling.

#### **B. Alcoholic**

A person who has the illness of alcoholism. The person's drinking is out of control and is self-destructive.

#### **C. Alcoholism**

A chronic disease characterized by repeated excessive drinking which interferes with a person's health, interpersonal relations, economic functioning, or societal standing. If untreated, alcoholism becomes more severe and may be fatal. It may take several years to reach the chronic state.

## **D. Critical-Sensitive Positions**

a. Those positions designated as such by State, AID, and USIA. The following criteria are applied in designating a position as critical-sensitive:

- (1) Access to top secret defense information;
- (2) Development or approval of war plans, plans or particulars of future, or major, or special operations of the war, or critical and extremely important items of war;
- (3) Development or approval of plans, policies, or programs which affect the over-all operations of an agency; that is, a policymaking or policy determining position;
- (4) Investigative duties, the issuance of personnel security clearances, or duty on personnel Security Boards; or
- (5) Fiduciary, public contact, or other duties demanding the highest degree of public trust.

b. All other sensitive positions which do not meet this criteria are designated as noncritical sensitive."

## **E. Deliver or Supply**

The actual or attempted transfer of a controlled substance, whether or not there exists an agency relationship, except by authorized personnel, such as physicians or persons authorized by physicians.

## **F. Drug Abuse**

A health problem characterized by the use of a drug in a manner or to a degree which interferes with the person's health, interpersonal relations, work, or standing in society.

## **G. Drug Abuse Prevention Function**

Any program or activity relating to drug abuse education, training, treatment, rehabilitation, or research, including any such function or program when performed by an organization whose primary mission may or may not be in the field of drug traffic prevention functions.

## **H. Drug Dependency**

The repetitively compulsive use of any drug. The term refers to the degree to which drug use pervades the life activity of the user. The drug dependent person may be physically or psychologically dependent, or both.

## **I. Drug Experimenter**

A person who improperly or illegally uses any drug a few times because of curiosity, peer pressures, or other reasons. The exact number of usages is less important in determining the category of user than the person's intent, the circumstances of use, and the person's psychological makeup.

## **J. Drugs**

Controlled substances prescribed for general use by section 812 of title 21, United States Code, and the implementing regulations set forth by the Attorney General. (See section 695, Appendixes A and B.) This includes such classes of drugs as the amphetamines, barbiturates, opiates, cocaine, the hallucinogens, and alcohol.

## **K. Governmental Personnel**

Persons who are employed by the U.S. Government, by State governments, or by any agency or political subdivision of either.

## **L. Medical Personnel**

Physicians, nurses, psychologists, alcoholism or drug abuse program administrators or coordinators, counselors, social workers, and supporting administrative, financial, clerical, and technical personnel.

## **M. Patient**

Any person who is or has been interviewed, examined, diagnosed, treated, or rehabilitated in connection with any alcohol or drug abuse prevention function, including any person who, after arrest on a criminal charge, is interviewed and/or tested in connection with alcohol or drug abuse preliminary to a determination as to eligibility to participate in an alcohol or drug abuse prevention program with the approval of the court.

## **N. Physical Dependency**

The presence of withdrawal symptoms when a person stops taking a drug. Not all drugs produce physical dependency. Psychological dependency may occur without, as well as with, physical dependency.

## **O. Problem Drinker**

To management, a problem drinker is any employee whose work, dependability, or behavior is frequently affected by the use of alcohol.

## **P. Psychological Dependency**

A craving for the pleasurable psychological effects of a drug. A strong feeling that drug taking is necessary to mental well-being.



## **Q. Records**

Includes communications and other information, whether recorded or not, relating to the identity, diagnosis, prognosis, or treatment of a patient (see paragraph m of this subsection for the definition of a patient). This applies to any records of a patient generated after March 21, 1972, and to all records of a patient generated before March 21, 1972, provided the patient was an active participant in a treatment program on that date and such participation represented a single, continuous program.

## **R. Recovered Alcoholic**

A person who has undergone rehabilitation and whose disease has been arrested through abstinence.

## **3 FAM 695.6 Responsibilities**

### **3 FAM 695.6-1 Program Administrators**

*(TL:PER-401; 6-30-75)*  
*(Uniform State/AID/USIA)*

The Secretary of State, the Administrator of AID, and the Director of USIA have designated Alcoholism and Drug Abuse Program Administrators in their respective agencies. The Program Administrators are located at Washington, D.C.: For State, the Office of Medical Services (DG/MED); for AID, the Personnel Services Division, Employees Relations Branch (SER/PM/PS/ER); and for USIA, the Employee Management Relations Division (IPT/E).

The Program Administrators are responsible for:

- a. Developing an over-all coordinated Alcoholism and Drug Abuse Program which meets the requirements and guidelines of the Federal program and is responsive to the needs of the agency.
- b. Providing continuing leadership and guidance to Alcoholism and Drug Abuse Coordinators and Boards, and to supervisors in implementing guidelines and instructions for counseling and assisting employees and eligible dependents with alcoholism or drug abuse problems.
- c. Educating employees on the Alcoholism and Drug Abuse Program, and arranging or conducting supervisory training.
- d. Establishing and maintaining liaison through the Special Assistant for Employee Management Relations (DG/EM) with labor unions and employee organizations to assure maximum understanding and participation in the program.

e. Working closely with the Civil Service Commission to assure adherence to Federal program objectives and guidelines.

f. Establishing cooperative working relationships with the Office of Medical Services (DG/MED) (see section 3 FAM 695.6-3), and referring cases for medical diagnosis and assistance.

g. Identifying and establishing relationships with acceptable nonmedical community resources to provide or supplement rehabilitation facilities, and maintaining current information on these resources for those who are counseling employees. (The use of established nonmedical community resources and facilities is encouraged for rehabilitation care in the United States, and also abroad, if security considerations permit.)

h. Maintaining statistical records to evaluate the effectiveness of the program and to furnish required statistical reports. Records are limited to (1) the number of employees and eligible dependents counseled by medical and other counseling specialists in problem drinking or drug abuse cases, and (2) the number of employees and eligible dependents helped through the Alcoholism and Drug Abuse Program. Such records are purely statistical and do not identify individuals.

i. Continually evaluating the program and recommending changes to improve its operations.

j. Periodically reporting to management on the results and effectiveness of the program, and annually to the Civil Service Commission.

k. Counseling and guiding employees and the supervisors of employees who may have an alcoholism or drug abuse problem and (1) do not wish to go to the Office of Medical Services (DG/MED) or (2) are referred by DG/MED.

l. Keeping informed on the progress of employees who are receiving counseling and assistance in order to recommend their reassignment, or other action when appropriate.

### **3 FAM 695.6-2 Program Coordinators and Boards**

*(TL:PER-401; 6-30-75)*

*(Uniform State/AID/USIA)*

a. Each chief of mission, after consultation with the AID Mission Director and the USIA Public Affairs Officer, designates one or more Alcoholism or Drug Abuse Program Coordinators, or at larger posts, Alcoholism or Drug Abuse Boards. The chief of mission notifies the appropriate agency of these designations or changes thereto. The chief of mission designates additional Program Coordinators at constituent posts, and other overseas establishments if the size of the staff warrants it.

b. The Program Coordinators or Boards are responsible for:

(1) Implementing policy guidelines and instructions of the Alcoholism and Drug Abuse Program for the post, area, or unit, by maintaining close liaison with Program Administrators, taking into account host country laws and the local situation regarding alcoholism and drug abuse.

(2) Counseling and assisting supervisors, employees, and eligible dependents regarding alcoholism and drug abuse problems.

(3) Recommending to the chief of mission, after consultation with the post or regional medical officer, the action to be taken in cases of alcoholism or drug abuse to protect the interests of the U.S. Government and the rights of the employees or patient involved.

(4) Evaluating and reporting to their respective agency Program

Administrators on the results and effectiveness of the program, and recommending changes to improve its operation.

(5) Carrying out informational activities to assure understanding and acceptance of the program by employees.

(6) Advising Program Administrators of nonmedical community resources, and working closely with such resources acceptable to State, AID, and USIA to provide or supplement rehabilitation facilities.

(7) Working closely with the post or regional medical officer on cases requiring medical diagnosis and consideration.

(8) Maintaining required statistical records, and reporting annually by July 15 to the Program Administrator in DG/MED. The reports by agency are limited to (a) the number of employees counseled by medical or other counseling specialists when the counselor concluded that problem drinking or drug abuse was an issue; and (b) the number of employees or eligible dependents helped through the program.

### **3 FAM 695.6-3 Office of Medical Services**

*(TL:PER-401; 6-30-75)*

*(Uniform State/AID/USIA)*

The Office of Medical Services (DG/MED) is responsible for:

a. Diagnosing alcoholism and drug abuse cases referred by Program Administrators, Program Coordinators, or Boards, or by post or regional medical officers or supervisors.

- b. Determining need for medical counseling and assistance.
- c. Offering guidance to the supervisor, and when requested, counseling to the employee or eligible dependent based on the supervisor's documentation and knowledge of the employee's declining work performance, attendance problems, or disruptive behavior.
- d. Providing supervision and guidance to the Administrators, Coordinators, Boards, or regional medical officers on alcoholism and drug abuse cases referred for medical diagnosis and consideration.
- e. Informing Program Administrators, Coordinators, and Boards counseling and guidance provided, and the status of employee's or eligible dependent's progress.
- f. Identifying Federal or other medical facilities to be utilized in alcoholism or drug abuse cases overseas or at domestic locations outside of Washington, D.C.
- g. Assuring that personnel are available to provide counseling and that they have sufficient training or experience in alcoholism or drug abuse to perform diagnostic and emergency treatment, to provide medical advice to an employee or eligible dependent, and to counsel management.
- h. Reviewing an applicant's medical history where use or abuse of alcohol or drugs is indicated by the applicant or eligible dependent, and recommending action to be taken.
- i. Advising the appropriate personnel concerning medical clearances relating to assignments. (see sections 3 FAM 695.3-2c and 3 FAM 695.8-7.)
- j. Protecting the confidential nature of the file of all alcoholism or drug abuse cases in accordance with these regulations (see section 3 FAM 695.8).

### **3 FAM 695.6-4 Supervisors**

*(TL:PER-401; 6-30-75)*  
*(Uniform State/AID/USIA)*

#### **A. Critical Role**

Supervisors have a critical role in this program. They have legitimate and explicit expectations of their employees in terms of job performance and behavior. When employees fail to fulfill these expectations, supervisors have both the right and the duty to confront them with the deficiencies, and to provide them with opportunities to correct the problem, regardless of its origin. Dealing with poor performance is a basic supervisory responsibility.

Timely intervention may lead to early, even life-saving, identification and treatment of the health problem, and will generally help to return employees to productivity.

## **B. Action to Take**

Supervisors should take the following actions:

(1) Be alert, through continuing observation, to changes in the work or behavior of assigned employees;

(2) Document specific instances when an employee's work performance, behavior, or attendance fails to meet minimum standards, or when the employee's pattern of performance and behavior seems to be deteriorating;

(3) Advise medical or counseling staff of the employee's problem. Include in this the degree of access the employee has to national security information, and any aspect of the employee's duties which might involve dangerous activities. Describe the behavior, but never try to diagnose the problem;

(4) Interview the employee concerning poor work performance and inform the employee of available counseling services; and

(5) Give to the employee who refuses help, and whose performance or behavior continues to be unsatisfactory, a firm choice between--

Accepting agency or outside professional assistance through counseling or professional diagnosis, and cooperating if treatment is indicated, or

Becoming subject to regular disciplinary action based on unsatisfactory performance or unsatisfactory behavior.

## **C. Discussing the Problem With the Employee**

Supervisors should not discuss the possibility of an alcohol or drug problem with an employee except in the following circumstances:

(1) If an employee is not in full control of self, the supervisor should inquire immediately about the employee's physical condition, always being aware that symptoms related to alcohol or drug use may also apply to other health problems. Refer the employee to medical personnel for diagnosis, emergency treatment, and referral for counseling. In the event such cases ultimately are determined to have stemmed from abuse of alcohol or drugs, supervisors should discuss the facts of the situation with the employee and refer the person for counseling.

(2) If an employee is involved in illegal activities related to drugs --

(a) Directed solely toward self, inform the employee of the known facts, inform the counselor, and refer the employee for counseling. Supervisors should not allow the employee to tell them any of the details of the illegal activity or conduct involved.

(b) Directed toward or potentially harmful to the person or property of others, such as selling drugs or stealing to support a drug habit, report the known facts to the Director General of the Foreign Service in State; the Director, Office of Personnel and Manpower and the Director, Office of Security, in AID; and the Assistant Director (Security) in USIA (see section 3 FAM 695.9-3). Then inform the employee of the known facts, inform the counselor, and refer the employee for counseling.

### **3 FAM 695.6-5 Counselors in Other Programs**

*(TL:PER-401; 6-30-75)*

*(Uniform State/AID/USIA)*

Counselors in other programs, such as Equal Employment Opportunity or Counseling and Assignments, if advised by an employee of a personal alcohol or drug problem, or a dependent's program, must take the following action:

a. Refer the employee immediately to Program Administrators, DG/MED, Program Coordinators, or Foreign Service doctors or nurses for counseling;

b. Adhere to the confidentiality requirements of section 3 FAM 695.8 on confidentiality of the record; and

c. Release alcohol and drug related information on the employee only with the employee's written permission, and only in accordance with the provision of the laws and regulations) (see section 3 FAM 695.8).

All counselors are subject to the penalties under the law for violation (see section 3 FAM 695.8-8).

### **3 FAM 695.6-6 Heads of Domestic Field Offices**

*(TL:PER-401; 6-30-75)*

*(Uniform State/AID/USIA)*

Heads of domestic field offices designate officers to coordinate the alcoholism and drug abuse program for their offices, and notify agency Program Administrators at Washington of their choices.

### **3 FAM 695.6-7 Medical Expenses for Rehabilitation**

*(TL:PER-401; 6-30-75)*  
*(Uniform State/AID/USIA)*

See section 3 FAM 681.5.

### **3 FAM 695.7 Disciplinary Policies and Practices**

#### **3 FAM 695.7-1 Relation of the Alcoholism and Drug Abuse Program to Disciplinary Policies and Practices**

*(TL:PER-401; 6-30-75)*  
*(Uniform State/AID/USIA)*

a. The alcoholism and drug abuse program is carried out as a nondisciplinary procedure aimed at rehabilitation of those who suffer from the disease. However, failure of the employee to accept the assistance offered through the program, or to otherwise correct performance, is dealt with through disciplinary or other corrective procedures.

b. If an employee with an alcohol or drug abuse problem refuses to seek counseling, or if there is no improvement in performance or behavior after efforts at counseling, assistance, or treatment, appropriate disciplinary action is taken based on unsatisfactory job performance or unsatisfactory behavior. Shielding an alcohol or drug abuser by tolerating poor performance contributes to the progression of the employee's illness by delaying the person's entry into a rehabilitative program.

#### **3 FAM 695.7-2 Release of Information**

*(TL:PER-401; 6-30-75)*  
*(Uniform State/AID/USIA)*

In a disciplinary situation, the alcohol and drug abuse function may release information on an employee only in summary form and only with the employee's written consent (see section 3 FAM 695.8-1).

#### **3 FAM 695.7-3 Dismissal From Employment**

*(TL:PER-401; 6-30-75)*  
*(Uniform State/AID/USIA)*

Dismissal from employment of a Federal civilian employee who cannot properly function in employment is provided for in section 413 of Public Law 92-255. Dismissal of such an employee whose employment is not consistent with the interests of national security is provided for in Executive Order 10450 of April 27, 1953.

### **3 FAM 695.8 Confidentiality of the Record**

*(TL:PER-401; 6-30-75)*  
*(Uniform State/AID/USIA)*

Confidentiality of patient information is crucial to the success of any prevention or treatment program which depends on voluntary participation. The privacy of patients' records also minimizes the diverse social effects of alcoholism or of drug abuse. The prohibitions which follow apply to records of any person who has ever been a patient, whether or not the person has ceased to be a patient. (See section 695.5m for definition of "patient.")

Records on patients concerning identity, diagnosis, prognosis, or treatment for alcoholism or drug abuse are confidential and may not be disclosed except for the purposes and under the circumstances described below, and may not otherwise be divulged in any civil, criminal, administrative, or legislative proceeding conducted by any Federal, State, or local authority, whether such proceeding is commenced before or after March 21, 1972.

The purposes and circumstances controlling disclosure are as follows:

#### **3 FAM 695.8-1 Disclosure With Patient's Written Consent**

*(TL:PER-401; 6-30-75)*  
*(Uniform State/AID/USIA)*

##### **A. Nature of Consent**

The patient may give written consent to disclosure of own alcohol or drug record, but the consent must state the following:

- (1) The name of the person or organization to whom disclosure is to be made;
- (2) The specific type of information to be disclosed; and
- (3) The purpose or need for such disclosure.

Similarly, the alcohol or drug record of an incompetent patient may be released to authorized recipients listed in paragraph c of this subsection upon the written consent of the patient's guardian, conservator, or other court-appointed designee.



The records of a deceased patient may be released to authorized recipients upon the written consent of the patient's executor, administrator, or other personal representative.

## **B. Extent of Disclosure**

Any disclosure under this part, whether with or without the patient's consent, must be limited to information necessary in the light of the need, or purpose, for the disclosure.

## **C. Authorized Recipients**

Under the circumstances in paragraphs a and b, the record may be disclosed to the following persons:

(1) Medical personnel for the purpose of diagnosis or treatment of the patient. The consent must be in writing in the form specified in paragraph a of this subsection. All medical personnel to whom disclosure is made are subject to all of the rules and penalties regarding confidentiality set forth in this section. (See section 695.51 for definition of "medical personnel.")

(2) Government personnel for the purpose of obtaining benefits to which the patient is entitled. For the purpose of this section, benefits include, but are not limited to, any welfare, medicare, or other public financial assistance authorized by Federal, State, or local law, the suspension of prosecution, the granting of probation or parole, public pension or retirement benefits, and any other benefit conferred by lawful authority. Benefits also include payment or reimbursement under a health or other insurance program carried by or in behalf of the patient and under which such patient is a beneficiary or a participant. Any such disclosure must be limited to information which is directly relevant to, and necessary in support of, a claim for payment or reimbursement under such health or insurance program for the benefit of the patient, and any information so disclosed remains subject to all of the restrictions of this part with respect to further disclosure.

(3) An attorney for the patient upon the written application of the patient endorsed by the attorney.

(4) Parents of a Minor. Information limited to a general evaluation of a patient's present or past status in a treatment program may be furnished to members of a minor patient's family if, in the judgment of a qualified physician or counselor, such information would be helpful in treatment or rehabilitation of the patient, and the patient makes a written request for such information to be furnished. Whether a minor has the authority to consent to disclosure depends upon law in the United States. If the minor is considered incompetent under local law, consent can then be rendered by a guardian or, if deceased, by the alcoholic's or drug abuser's personal representative. If the minor is overseas, local law is determined by the legal residence of the minor's parents or guardian.

(5) A Potential Employer. Whenever a patient or former patient has been employed, or is seeking employment, and such employment is conditioned upon the person's status or progress in a treatment program, an evaluation of such status or progress by qualified medical personnel may be furnished to responsible employment agencies, services, or employers which have demonstrated their willingness to employ, or assist in the employment of, present or former alcoholics or drug abusers in an alcoholic or drug abuse treatment or rehabilitation program. The request for such an evaluation must be in writing and signed by the patient. The information given must be limited to that reasonably necessary in view of the type of employment involved. No information may be furnished by a treatment organization unless the organization is satisfied on the basis of past experience or other credible information (which may in appropriate cases consist of a written statement by the employer) that such information will be used for the purpose of assisting in the rehabilitation of the patient, and not for the purpose of identifying the individual in order to deny the person employment or advancement because of a history of drug abuse.

(6) The Patient's Family. Information in the nature of general evaluation of a patient's present or past status in a treatment program may be furnished to members of the patient's family if, in the judgment of a qualified physician or counselor, such information would be helpful in treatment or rehabilitation of the patient, and the patient makes a written request for such information to be furnished.

### **3 FAM 695.8-2 Disclosure Without Patient's Consent**

*(TL:PER-401; 6-30-75)*

*(Uniform State/AID/USIA)*

Disclosure of a patient's record may be made without the consent of the patient and without authority of a court order as follows:

#### **A. To Medical Personnel to Meet a Medical Emergency**

A bona fide emergency exists when competent medical authority determines that the life or health of the patient involved may be impaired, and medical treatment without the record could be detrimental to the patient's health.

#### **B. To Qualified Personnel for Purposes of Research, Audit, or Program Evaluation**

Qualified personnel, however, may not identify, directly or indirectly, any individual patient in any report of such research, audit, or evaluation, or otherwise disclose patient identities in any manner. "Qualified personnel" means persons whose training and experience are appropriate to the nature of the work in which they are engaged, and who are performing such work with adequate safeguards against unauthorized disclosures.

### **3 FAM 695.8-3 Disclosure by Court Order**

*(TL:PER-401; 6-30-75)*  
*(Uniform State/AID/USIA)*

Disclosure may be made, if authorized by an appropriate order of a court of competent jurisdiction, after application showing good cause for it. In assessing good cause, the court must weigh the public interest and the need for disclosure against the injury to the patient, to the physician-patient relationship, and to the treatment services.

### **3 FAM 695.8-4 Prohibition Against Criminal Charges or Investigation**

*(TL:PER-401; 6-30-75)*  
*(Uniform State/AID/USIA)*

Except as authorized by a court order (see section 3 FAM 695.8-3), no record (as defined in section 695.5q) may be used to initiate or substantiate any criminal charges against a patient or to conduct any investigation of a patient.

### **3 FAM 695.8-5 Discussion of Illegal Activities**

*(TL:PER-401; 6-30-75)*  
*(Uniform State/AID/USIA)*

The counseling of persons who have alcohol or drug problems may sometimes involve discussion of their illegal activities. Personnel performing an alcohol or drug abuse prevention function (see section 3 FAM 695.5g) shall not disclose such information to law enforcement authorities, and should not seek to elicit information relating to crimes or criminal conduct from these persons. (Note that management, however, does have an obligation to report illegal activities to law enforcement authorities (section 695.3-2d).)

However, no counselor (see section 3 FAM 695.5a) is bound to accept for counseling a person who persists in discussing illegal activities. Therefore, if information is disclosed on (a) planned illegal activity against others, or (b) specificity and detail of past illegal activity against others, the counselor consults legal counsel, where available, regarding own duty and responsibility, and advises the employee that continued disclosure will result in termination of counseling services. If termination of services occurs, the counselor, if the employee or eligible dependent was referred by management, advises management of the termination of services.

### **3 FAM 695.8-6 Disclosure in Disciplinary Actions**

*(TL:PER-401; 6-30-75)*  
*(Uniform State/AID/USIA)*

In a disciplinary situation, an alcohol or drug abuse prevention function may release information on an employee or eligible dependent only in summary form and only with the employee's or dependent's written consent.

### **3 FAM 695.8-7 Fitness for Duty and Preemployment Examinations**

*(TL:PER-401; 6-30-75)*  
*(Uniform State/AID/USIA)*

These are two mechanisms available to management for insuring the health fitness of employees. The conducting of such examinations and subsequent release of information are not subject to the requirements of either Public Law 92-255 or of Public Law 79-658 of August 8, 1946 (5 U.S.C. 7901), or of Office of Management and Budget Circular A-72 of June 18, 1965, which established the policy that the health fitness of Federal employees for efficient performance of their assigned work is an important element in effective administration. Any alcohol or drug related information developed in such examinations is accorded the same confidentiality provided under existing guidelines for other information developed in these types of examinations.

In making fitness for duty determinations, medical officers will consider the extent to which the employee's pattern of behavior could have a detrimental effect upon either national security interests or the safety of the individual or to others, and recommend appropriate restrictions on duties or assignments. DG/MED will also furnish the appropriate Security Office a written statement of such findings.

### **3 FAM 695.8-8 Criminal Penalties for Unauthorized Disclosure**

*(TL:PER-401; 6-30-75)*  
*(Uniform State/AID/USIA)*

Any person who discloses the contents of any record referred to in section 695.8 shall be fined not more than \$500 in the case of a first offense and not more than \$5,000 for each subsequent offense.

## **3 FAM 695.9 Records and Reports**

### **3 FAM 695.9-1 Employees With Drinking Problems**

*(TL:PER-401; 6-30-75)*  
*(Uniform State/AID/USIA)*

The files of employees with drinking problems must be accorded the same confidentiality as all other medical records and other classified material.

### **3 FAM 695.9-2 Employees With Drug Abuse Problems**

*(TL:PER-401; 6-30-75)*  
*(Uniform State/AID/USIA)*

The files of employees with drug abuse problems should be marked "Confidential Patient Information," as should any record identifying a person as a drug abuse patient, including photographs, fingerprints, reports of skin abrasions, indicating drug use or other documentation of patient information.

File cabinets or other containers in which such files are kept should be conspicuously labeled with a cautionary statement, such as:

"Confidential Patient Information

Any unauthorized disclosure is a Federal offense."

### **3 FAM 695.9-3 Reporting to Washington**

*(TL:PER-401; 6-30-75)*  
*(Uniform State/AID/USIA)*

#### **A. Alcohol and Drug Use at Posts Abroad**

Officers in charge at posts report promptly, first by medically coded (ICDA--International Classification of Disease, Adopted--) telegram followed by a detailed pouch communication, any case of alcoholism or drug abuse involving a U.S. citizen employee or an eligible dependent of any agency under the officer's jurisdiction. Since alcoholism and drug abuse are medical problems, the caption "MED CHANNEL" is used on telegrams when alcoholism or drug abuse is the sole reason for reporting. Direct all reports involving employees of State, AID, and USIA or their dependents to the Deputy Assistant Secretary for Medical Services. These reports, when based upon information obtained from a patient, are subject to section 3 FAM 695.8-1.

## **B. Possession, Trafficking, or Sale of Drugs Abroad**

Reports of the illegal possession, trafficking, or sale of drugs by a U.S. citizen employee or the dependent of an U.S. citizen employee of any agency under the jurisdiction of the officer in charge (except for AID and USIA) is reported in the "DIRGEN CHANNEL." When an employee is in an agency other than State, a copy of the message is forwarded by the Department to the headquarters personnel office of the employing agency, and a copy is forwarded to the Department's Office of Security.

Submit messages or reports on USIA employees or dependents to the agency's Office of Security.

Submit messages or reports on USAID employees or dependents to the Director, Personnel and Manpower, AID/W, and the Office of Security.

## **C. Action Recommended by Post**

All reports are to include the planned or recommended action of the officer in charge.

## **D. Alcoholism or Drug Abuse in U.S. Offices or Installations**

Officers in charge of bureaus, offices, or field installations in the United States submit reports concerning alcoholism or drug use to the Office of Medical Services. Submit reports concerning illegal possession, trafficking, or sale of drugs, or criminal conduct directed toward or potentially harmful to the person or property of others to the offices indicated in paragraph b of this subsection.

## **3 FAM 695.9-4 Reporting to the Civil Service Commission**

*(TL:PER-401; 6-30-75)*

*(Uniform State/AID/USIA)*

The Office of Medical Services submits annual reports to the Civil Service Commission or to other authorized Federal agencies, as required, based on statistical information provided by the Program Administrators in State, AID, and USIA.

Annual reports, due July 15, follow the pattern described in section 3 FAM 695.6-1h.